

# NEW POLICY GUIDELINES

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**T**HE following new guidelines are intended to promote proper, consistent and fair application of the law and policy on homosexual conduct, and to ensure training of those responsible for administering and enforcing the policy — commanders, attorneys and investigators.

**GUIDELINE:** Judge advocates are now required to consult with senior officers at higher headquarters before starting an investigation into alleged homosexual conduct.

**COMMENT:** In the past the Army had no such requirement. The majority of homosexual-conduct cases involve minimal or no investigation. Therefore, many installation-level attorneys have little expertise in this area and consequently often seek advice from more experienced judge advocates in higher headquarters legal offices. This practice is now institutionalized.

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**GUIDELINE:** Under certain circumstances, commanders must now seek prior authorization at the secretarial level before undertaking a substantial investigation in cases where a service member has made a statement acknowledging homosexuality and does not contest separation. A substantial investigation is one that extends beyond questioning the service member, questioning persons suggested by the service member, and

questioning the member's chain of command. Prior authorization at the secretarial level (Office of the Assistant Secretary of the Army, Manpower and Reserve Affairs) is now required when the investigation is for the purpose of determining:

- whether recoupment of financial benefits is warranted, and
- whether a soldier's statement that he or she is a homosexual may have been fabricated to avoid a service obligation.

**COMMENT:** In the past there was no requirement for prior secretarial-level approval to begin substantial investigations into admissions of homosexuality. The new policy is intended to ensure appropriate review of any investigation of this nature.

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**GUIDELINE:** Inspectors general are now required to include as a specific item of interest for inspection the training of all people charged with implementing the homosexual-conduct policy — i.e., commanders, attorneys and investigators.

**COMMENT:** The Army has not previously tasked the IG to inspect homosexual conduct policy training. In the past, the Army trained commanders and attorneys, but not law enforcement personnel, on the homosexual-conduct policy.